

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JEFF REED,

Petitioner,

-vs-

MICHAEL A. LEONARD, Warden,

Respondent.

:

Case No. 3:98-cv-478

:

District Judge Susan J. Dlott
Chief Magistrate Judge Michael R. Merz

:

**ORDER GRANTING LEAVE TO WITHDRAW PENDING MOTIONS AND DENYING
LEAVE TO DISMISS THE CASE WITHOUT PREJUDICE**

This case is before the Court on Petitioner's Voluntary Motion to Dismiss All Motions Without Prejudice (Doc. No. 79).

To the extent that Petitioner is actually seeking to withdraw all his pending motions, that request is granted and Petitioner's Motion to Proceed *in forma pauperis* on Appeal (Doc. No. 73), his designation of record on appeal and his implicit request for a certificate of appealability are all deemed withdrawn.

In the Motion, Petitioner also adverts to advice received from an attorney that he should dismiss his whole case without prejudice. Under Fed. R. Civ. P. 41, that can only be done after judgment with an opponent's permission, which has not been obtained, or with the Court's

permission, which is denied. It would seriously undermine judicial economy and the State's interest in the finality of judgments to permit a habeas corpus petitioner to dismiss without prejudice almost seven years after the case was filed and more than six years after final judgment on the merits.

June 7, 2005.

s/ **Michael R. Merz**
Chief United States Magistrate Judge